

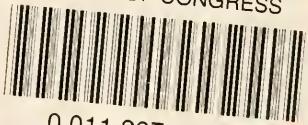
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ADDRESS
OF
HON. J. B. FORAKER
ON THE
LIFE, CHARACTER AND PUBLIC SERVICES
OF
SALMON P. CHASE,
Late Chief Justice of the United States,
DELIVERED BEFORE THE
CIRCUIT COURT OF THE UNITED STATES
AT SPRINGFIELD, ILLINOIS,
OCTOBER 7, 1905.

May it Please the Court:

The career of Chief Justice Chase was too eventful and too intimately connected with the great duties of a great period in our country's history to be justly portrayed in a brief address such as is called for on an occasion of this character.

Mere glimpses are all that can be taken of even the most important features of his life, while many minor events must be entirely ignored, which, under other circumstances, might be dwelt upon with both interest and propriety.

Fortunately in that respect, what we are most concerned about here to-day is not his childhood, or his private life, domestic or professional, but his public life, and particularly that part of it which led up to and included the Chief Justiceship.

He came of good stock, and had the good fortune to be born poor, and to be blessed with a powerful physique, an attractive personality, a dignified presence, a strong intellectual endowment, and such a predisposition to seriousness as to make frivolities of all kinds impossible.

He was also fortunate in being identified with ^{the} both New England and the West, for thus he acquired ~~both~~ culture and refinement of the one section, and the vigorous and independent thought and progressive activity of the other.

He spent several years of his boyhood in the family of his uncle, Bishop Chase, of the Protestant Episcopal Church, who was stationed during this period at Worthington and Cincinnati, Ohio. After this he became a student at Dartmouth College, where he was graduated in the classical course with that mental power of analysis and logical thought and expression which nothing can develop quite so well as a thorough study of the Latin and Greek languages.

He next spent three years in Washington, during which period he read law under William Wirt, then Attorney General of the United States.

The relation of student and preceptor seems, however, to have been little more than nominal, since it was related by Mr. Chase that Mr. Wirt never asked him but one question about his studies. He also states that when he came to be examined for admission to the bar he found himself so illy prepared that he passed with difficulty, and chiefly, as he always thought, because he informed Mr. Justice Cranch, who admitted him, that he intended to locate in the West.

During his stay in Washington he had many advantages that compensated in some degree for this lack of preparation for the practice of his profession.

He was on terms of social intimacy with Mr. Wirt's family, whose position was such that he was not only brought in contact with all the prominent men then in control of public affairs, but also with all the great questions with which they were at the time concerned.

Being of a studious and serious turn of mind, with such experiences, and amid such surroundings, he naturally drifted into the study of the political problems of the day, so that when in 1830, at the age of 22 years, he opened a law office in Cincinnati, he was already almost as much occupied with affairs of State as about legal principles.

He chose Cincinnati for his future home because at that time it was the largest and most flourishing city of the West, and on that account gave the most promise of opportunity to a young lawyer ambitious to achieve success and distinction.

He did not foresee that the slavery question was soon to become acute, and that he was to entertain views and take a position with respect to that institution of such ultra character that a less hospitable community for him could scarcely have been found in any Northern State than that border city, situated on the line that divided the free from the slave States, was to become.

If he had foreseen all this it probably would not have changed his course, for he was so constituted by nature that he might have felt that duty required him to station himself at that outpost as a sort of advance guard of the anti-slavery movement.

For several years he labored industriously to gain a foothold in his profession without making any more than ordinary progress.

His biographers record that during this period he had time for social functions, magazine articles, some newspaper work, and, most important of all, for a revision

and editing of the statutes of Ohio which he published with a very able introduction in the nature of an historical sketch of the State and its developments. Still, however, he forged ahead, not rapidly, nor brilliantly, but surely, constantly and substantially.

His clients gradually increased in numbers and the work they brought him improved in quality until he had a very fair business, almost altogether of a commercial character, but his practice was still modest, involving neither large amounts nor complicated questions, and his position at the bar, although respectable, was yet comparatively humble and uninfluential, when, suddenly, unexpectedly and unintentionally, he was drawn into the controversy about Slavery and was started on a public career in the course of which he quickly became a political leader and achieved much fame as a lawyer.

ANTI-SLAVERY LEADER.

The mobbing in 1836 of the *Philanthropist*, an Anti-Slavery Newspaper, published in Cincinnati by James G. Birney, aroused him, as it did thousands of others, to the intolerance of the slave spirit and the necessity of resisting its encroachments by protecting Free Speech and a Free Press if the rights of the white man, as well as the rights of the free colored man, were to be preserved. He at once took a pronounced stand as an anti-slavery man although he was always careful, then, and afterwards, until the Civil War, to declare and explain that he was not an abolitionist, and that he had no desire to change the Constitution or interfere with slavery in any way in the States where it was already established.

Although most of the time "out of line" he claimed to be a Whig until 1841, but professed to believe in the States Rights, Strict Construction doctrine of the Jeffer-

son School of Democracy, and thus reconciled his attitude with respect to slavery in the States and his opposition to its extension beyond the States by the contention that the States in their sovereign capacity had a right to authorize and protect the institution, although a great evil, if they saw fit to do so; and that the States had this power because it belonged to sovereignty and had not been delegated by the Constitution to the Federal Government; and that because such power was not delegated to the General Government, it had no power to authorize, protect, or even continue the institution in any district, territory or jurisdiction over which it directly governed.

Both his politics and his law were severely criticised for they made it impossible for him to fully satisfy any party or faction of that time.

He did not go far enough for the Abolitionists, and went too far for both the Whigs and Democrats. One repudiated him because he was pro-slavery as to slavery in the States, and the other because he not only opposed the extension of slavery into the Territories but advocated its abolition in the District of Columbia, for which he is credited with drafting one of the earliest petitions presented to Congress. It naturally followed that he soon had trouble to know to what political party he belonged; a trouble that continued to plague him all his life and apparently led him to try in turn to belong to all of them, but without finding satisfaction in any, not excepting those practically of his own creation.

Thus we find him calling himself a Henry Clay National Republican in 1832, a Harrison Whig in 1836, an out and out Whig in 1840, a Liberty man in 1844, a Free Soiler in 1848, a Democrat in 1851, so enrolling himself in the Senate, a Liberty man again in 1852, a Republican in 1856, and afterward until it was foreseen that he had

no chance against Grant to be nominated by the Republican Party for the Presidency in 1868, then suddenly becoming a Democrat again, seeking the nomination by that party, and in that connection claiming that aside from slavery questions, so far as basic principles were concerned, he had been a Democrat all his life.

On top of all this we find him writing to a friend shortly prior to the meeting of the Liberal Convention that nominated Horace Greeley at Cincinnati in 1872, that if it should be thought that his nomination would promote the interests of the country he would not refuse the use of his name, thus showing a willingness to change parties once more on the condition expressed.

It is probably safe to say that he had membership in more political parties, with less enjoyment in any of them and with less mutual obligation arising therefrom than any other public man America has produced.

At any rate it was with this kind of zig-zag party affiliations he laid the foundations and built on them the claims on which he was elected to the Senate in January, 1849, by a fusion of the Democrats, Anti-Slavery Democrats, Democratic Free Soilers and Independent Free Soilers, and felt that he had a right to complain, as he did, because the Whigs, Anti-Slavery Whigs, and Free Soil Whigs would not also vote for him. In making that complaint, he ignored the fact that it was charged and believed by the Whigs that his election was brought about by a bargain, which, among other things, provided that two contesting Democrats, enough to give that party a majority, were to be admitted to seats in the House. There was undoubtedly a clear understanding arrived at but like some other men, of more modern times, such deals appear not to have been offensive to him, when made in his own behalf, since thereby the praiseworthy result was reached of securing his services

to the public. They were bad and to be execrated only when made by others, and in the interests of somebody else, whose services were not, in his opinion, so important.

His complaint was not, however, without plausibility, for he at least had equal claims on all the parties and factions named, except the two Independent Free Soilers, to whom he really owed his election, since he had belonged to all, had repudiated all, and had been repudiated by all.

And yet, most of these party changes, perhaps all except that of 1868, came about naturally, and, from his standpoint, strange as it may appear, consistently also. His opposition to slavery being paramount, and the Whig Party failing and refusing to become an anti-slavery party, he was lukewarm and irregular in its support until the death of Harrison and the accession of Tyler, when he lost all hope of it ever meeting his views. He then openly deserted it and joined the Liberty party and at once devoted himself to its reorganization and upbuilding, which party, however, he in turn, abandoned, and helped to disorganize to make way for the Free Soil Party of 1848, which he actively helped to form by bringing about a fusion of Liberal Party men, Barnburners, Anti-Slavery Whigs, Anti-Slavery Democrats, and all other dissatisfied classes who could be gathered into the fold; a combination of elements incongruous as to all questions except that of hostility to slavery, about which they had the most fiery zeal. This party, so constituted, nominated Martin Van Buren as their candidate for the Presidency, in a Convention over which Mr. Chase presided, and of which he was the dominating spirit, but they largely strengthened themselves and their cause by the ringing declarations of their platform, of which he was the chief author, for "Free Soil, Free Speech, Free Labor and Free Men."

What Chase evidently most wanted in connection with that Convention was the substance and not the shadow—the platform in preference to the candidate, for it was well known that the candidate had no chance of an election, and would therefore pass away with the campaign, while the principles enunciated would be educational, and would live to do service in the future.

Thus it was that while manifesting instability, if not contempt, as to party ties and associations, by flitting out and in from one party to another, he was yet steadfastly, zealously and efficiently making continuous war on slavery, and all the while coming into ever closer affiliation and co-operation with the out-and-out Abolitionists; for while nominally working only as an anti-slavery man, he was largely aiding in the development of a radical Abolition sentiment. His progress in this respect was inevitable, for as the discussion proceeded he was necessarily more and more drawn into it—explaining, defending and advocating his views.

All the while his horizon was widening, and he was becoming acquainted by correspondence and otherwise, with the leading anti-slavery men of all the other States, both East and West. This multiplied the demands upon him for an expression of his sentiments, and so during this period he wrote many articles for the newspapers and magazines, attended political conventions, wrote platforms, and addresses to the public, and made numerous speeches on all kinds of public occasions. Being a forcible and ready writer, and a logical and convincing speaker, although too deliberate to be magnetic, he was constantly in demand, and as constantly making valuable contributions to the general literature that was used against slavery by its enemies of all shades and degrees.

Along with this growth of political prominence and

influence before the public, there came to him, as a lawyer, a series of cases, all arising, in one form and another, under the Fugitive Slave Law, by which he was given repeated opportunities, which he well improved, of developing and presenting to the country the legal aspects of the controversy in a way that attracted universal attention to his cause and to himself as one of its ablest and most powerful exponents.

He was not successful except on some technical points in any of these cases, and probably did not expect to be; and in most if not all of them, he was paid inadequate fees, if any at all; but he labored and strove in them with all the energy that confidence of success and the most ample compensation could inspire. He thoroughly and exhaustively briefed them, and raised and insisted upon every point that could be made, both technical and substantial. In one of these cases that went to the Supreme Court of the United States, he artfully placed before the whole country, as well ^{as} the Court, all his constitutional and other arguments not only against Slavery but also against a Fugitive Slave Law, and particularly against its application to any but the original thirteen States, and therefore against its application to Ohio.

He was overruled, as he must have expected he would be, but he was purposely addressing himself to the country as well as the Court, and had a confidence, that subsequent events vindicated, that he would eventually secure a verdict at the hands of his fellowmen that would right the whole system of wrong that he was combating.

IN THE SENATE.

In the Senate he was out of harmony from first to last with both the Democrats and the Whigs. He at first in-

sisted upon calling himself a Democrat, although the Democrats who were in the majority practically disowned him, and in the Committee assignments refused him any substantial recognition. This did not seem to either embarrass or handicap him. He had, in consequence of being practically relieved from Committee work, all the more time for the consideration of the slavery question, which was then rapidly becoming more and more the all absorbing question of the hour.

He had not been long in his seat until he found opportunity to speak on that subject. From that time until the end of his term he was the real leader of the anti-slavery forces of both the Senate and the House. They were few in number, but they were able and forceful men, who stood up manfully and inspiringly for a sentiment which was then unpopular but which was soon to control the nation.

His most notable efforts were made in opposition to the Kansas-Nebraska Bill. He was overwhelmingly beaten when the vote was taken, but he had so crippled and weakened the measure in the popular mind, that Douglass soon realized that while he had won the day in Congress, he had lost it before the people, who had become so aroused that he quickly saw that the long predicted dissolution of the Whig Party and the revolt of the Free Democrats were at hand, and that a new party was forming that was destined to change the entire complexion of the political situation and bring to naught all he had gained.

The debate was one of the most acrimonious and, measured by its far-reaching consequences, one of the most important that ever occurred in the American Congress.

Chase was the target for all the shafts of malice and ridicule, but through it all he bore himself with dignity

and serenity, and showed such sincerity, zeal and ability, that, notwithstanding his obnoxious views, he gained the friendship of most of his colleagues and the respect of the whole country. His personal character was always upright, and now as he came to the end of a turbulent term in the Senate, where he had been disowned and in many ways slighted and mistreated by both parties, he saw, what he had probably long foreseen, a new party forming, of giant strength and high purpose, which he had done as much as any other man, if not more, to create, and of which he was an acknowledged leader.

The Democrats being in control of the Ohio Legislature, took his place in the Senate away from him, and gave it to George E. Pugh. But instead of punishing and retiring him, as they designed, they only made the way open and easy for him to become, after a most spirited campaign that attracted the attention of the whole country, the first Republican Governor of Ohio, and as such a prominent candidate for the Presidency.

THE PRESIDENCY IN 1856.

He was conscious of the work he had done in organizing the new party, and realized that he had greatly strengthened it by leading it to its first great victory in the third State of the Union, as Ohio then was, while in New York and Pennsylvania his party associates had failed. With his strong mental powers, long experience in public life, and familiarity with all the public affairs and questions to be dealt with, it was but natural that under the circumstances, he should expect the honor of leading his party, as its candidate for the Presidency, in its first great national contest, and that he should experience keen disappointment when he saw his claims rejected, and the honor conferred on a younger man, who

had no special claims, except the popularity of an idol of the hour, who had won his prominence and the public favor not by participation in the fierce struggles and educational experiences through which the country had been passing, but by the success of a number of daring and spectacular explorations. He was solaced, however, by the thought that he was yet a young man, who could wait and grow with his party, and become its candidate later when the chances of success were more certain. He was in a good position for such a program.

GOVERNOR OF OHIO.

But aside from all such considerations he was naturally ambitious to make a good Governor, and such he was. His administration was conducted on a high plane, and in all respects he showed himself a capable and efficient Executive. Throughout his two terms the slavery question, through repeated Fugitive Slave Law cases, was almost constantly occupying public attention. As Chief Executive of the State he now had an official responsibility for the due execution of the laws and the process of the Courts, and had great difficulty to meet the requirements of public sentiment and avoid a conflict with national authority. While in some instances severely criticised he appears with respect to all these delicate and troublesome controversies to have fairly and faithfully performed his duty. At any rate when he retired from his office in January 1860, his party was greatly strengthened, and he had gained in general estimation as a man of pronounced convictions, honorable purposes and high qualifications for the public service. This was emphasized by a re-election to the Senate for the term commencing March 4th, 1861.

Thus it came to pass that in 1860 he ranked officially and personally, and deservedly so, with the foremost men of the nation. He seemed to have just and superior claims upon his party for its highest honor, and with a frankness amounting almost to immodesty—he set about securing it.

PRESIDENTIAL CANDIDATE 1860.

He had friends in all sections of the country, and he called upon them to advocate and advance his cause. He appeared to think only Seward and Bates formidable rivals, and easily satisfied himself that his claims were superior to theirs, but his friends in different parts of the country, especially in his own State, which seems to have had factional divisions and differences then as well as in later years, soon found that while all acknowledged his abilities, general qualifications and high personal character, yet there was a strong feeling in many quarters of distrust as to his views on the tariff and other questions that Republicans deemed of vital importance. This was due not so much to any statements he had made on these subjects, for he had never talked or written very much except about slavery, as to his oft repeated insistence and reiterated declarations from time to time preceding the organization of the Republican party, that he was a Democrat, and that he adhered to all the principles of that party, except those with respect to slavery.

In Ohio there was added a lingering resentment among many of the old Whig leaders for his apparently vacillating course as a party man, and especially for his combination with the Democrats to secure his election to the Senate in 1849.

Some of his friends were frank enough to tell him that his chances were not promising, but he listened more to those who told him what he wanted to hear, and, notwithstanding a divided delegation from his own State, and but few delegates from other States who favored him as their first choice, he industriously and optimistically continued his canvass until the Convention met, and, giving him only forty-nine votes, dashed his hopes to the ground by the nomination of Abraham Lincoln.

Much fault has been found with him for the manner in which he personally conducted his campaign for this nomination: He seems to have proceeded on the theory that "If he wanted the office he should ask for it," and to have not only asked but also in many instances to have insisted upon his right to support.

His correspondence teems with an array of his claims, and with arguments in support of them, and with advantageous comparisons of them with the claims of others, and with directions and suggestions to his friends how to advance his interests.

It is to be regretted that a man of such lofty character, such high ability, and such long experience with men and public affairs, could have shown so little regard for propriety with respect to such a matter.

The small vote he received in the Convention was probably due in some degree at least to the offense he gave in this way, for the sturdy, hard-headed men of that heroic time naturally disliked such self-seeking with respect to an office the duties and responsibilities of which were so grave that any man might well hesitate to assume them even when invited to do so.

In all other respects his canvass was free from criticism. It was honest; there was no trickery attempted in connection with it—no promises were given, no bargains were made, no money was used. When it was

over he had nothing to regret except defeat, and he took that gracefully. He gave Mr. Lincoln hearty support, and was undoubtedly truly rejoiced by his election, for he saw in it the triumph of the principles for which he had been all his life contending, and the beginning of the end of slavery in the States as well as elsewhere.

IN THE CABINET.

Mr. Lincoln at the time of his election was underestimated by almost everybody, except those whom he was wont to call the plain, common people. They seemed to know him and his greatness by intuition, as it were. They had confidence in his sound common sense, and loved him for his homely manners, and simple straightforward methods. They felt from the day of his nomination that he would be elected; and when he was elected, and the clouds began to gather, and one State after another seceded, there never came an hour when they did not implicitly rely on him to safely pilot them through whatever storms might come. He had their confidence from the first and he held it to the last. They never wavered either in their devotion to his leadership, or in their faith that he would eventually save the Union.

From the very beginning they gave him also his rightful place as the real leader, who outranked all his associates in public life, not only because he was President, but also, and more particularly, because of his natural endowments and qualities of mind and heart.

But it was different with some of the leaders. Many of them were slow to acquire a just conception of his character and abilities. They never thought of him seriously in connection with the Presidency until he was practically nominated, and they did not think of him then, except as a sort of accidental compromise, who was not

well qualified for the position. They regarded him as lacking not only the culture and refinement, but also the practical experience with public affairs that was essential to their successful administration.

He came to the front so suddenly and unexpectedly that he had gone ahead of them and had been named by his party for its leader before they realized that they were being supplanted. His administration was organized and fairly under way before they began to recognize their true relation to him.

This was particularly true of Seward and Chase, who had been the chief, and as they long thought, almost the exclusive rivals, for the honors of party leadership.

Both were invited to take seats in the Cabinet, and each accepted with the idea that, in addition to his own Department, he would be expected to bear, in large degree, the burdens of all the other Departments. Each seemed to think the country would look to him rather than to Mr. Lincoln for the shaping of the policies to be pursued. There was some excuse for this in the fact that each had his ardent friends and admirers who encouraged the idea, and because some of the leading newspapers seemed to think that Lincoln had called them into his counsels from consciousness of his deficiencies, and in recognition of their superior fitness for the work he had been called to perform.

This thought—of the broader and more important duty of supervising the whole administration, seems for a time to have so occupied Chase's mind, that he did not at first realize, and perhaps never, fully, that his legitimate field at the head of the Treasury Department was full of duties of the highest importance and the amplest opportunities for conspicuous service.

During all the time he was a member of the Cabinet, but particularly during the first months, he gave much

volunteer attention to duties outside his Department, particularly to those relating to the War Department; the organization of the army and the planning and conducting of campaigns; he was an inveterate letter writer, and was constantly giving advice and making suggestions to apparently every one who would listen, including commanding officers in the field.

Gradually, however, he came to more clearly understand that his own duties were enough, if properly looked after, to tax him to the utmost, and in time he came also to realize that Mr. Lincoln was the head of his own Administration, and the final arbiter of all controverted questions.

By reason of this disposition and habit his work in the Cabinet was not so good as it might have been if he had concentrated his efforts in his own Department and had been properly alive from the outset to the seriousness of the situation he was called upon to meet. His fault in this latter respect was, however, common to all, for the war in its magnitude and duration exceeded all expectations, and its demands multiplied with such frightful rapidity as to upset all calculations, thus making it well nigh impossible for him to keep pace with its growing requirements, and secure from Congress the authority and help necessary to enable him to carry out such plans as he formulated; and yet, notwithstanding all this, it would be difficult to exaggerate what he accomplished.

He found his Department disorganized, but in the midst of the excitements of the hour and the exacting duties of a more important nature that fell upon him, he thoroughly re-organized it, introducing many reforms that greatly increased its efficiency. He found the Government without funds or credit, and without adequate revenues to meet ordinary expenditures in time of peace,

but he surmounted all such obstacles and made it successfully respond to the exigencies of war.

With the necessity suddenly precipitated of providing for great armies and navies, and equipping and maintaining them, he would have had a hard task under the most favorable circumstances, but it was increased almost beyond the power of description by an empty Treasury, a startling deficit, an impaired credit, an inadequate revenue, and eleven States in rebellion, with tens of thousands of copperhead sympathizers in every loyal State criticising and actively opposing in every way, short of overt acts of treason, every step he took or tried to take.

He had all the help that able men in Congress and outside could give him by advice, and the suggestion of plans and methods, and ways and means, but after all he was the responsible official, whose duty it was to hear all, weigh all, and decide which plan of all the many suggested should be adopted, and then take upon himself the responsibility of recommending it and advocating it before the country and before the Congress, and if the necessary authority could be secured, executing it.

His difficulties were further increased by the fact that the Republican Party was then new to power, and its members in public life had not yet learned to work in harmony. Many of them were strong and aggressive men who were slow to adopt the views of others with which they did not fully coincide.

In consequence his recommendations were subjected to the keenest scrutiny and criticism from party associates, as well as opponents, and not infrequently they were materially modified or changed before they received statutory sanction, and in some instances entirely rejected.

In all these experiences his high personal character and well recognized ability were of incalculable value

to him and his country. Whatever else might be said, nobody ever questioned the integrity of his purpose, the probity of his action, or the sincerity of his arguments.

While in the light of subsequent events it is seen that much that he did might have been done better, yet when the circumstances and the lack of light and precedent under which he acted are fairly measured it is almost incredible that he did so well.

When we recall that great conflict we are apt to think only of its "pomp and circumstance"—of the deeds of heroism and daring—of the army and the navy—of the flying flags and the marching columns—of the services and sacrifices of those who fought and died—forgetting that less fascinating but indispensable service, and the noble men who rendered it, of supplying "the sinews of war," without which all else would have been in vain.

His labors in this behalf were incessant and herculean. On this occasion details are impossible. Suffice it to say that by every kind of taxation that could be lawfully devised he swelled the revenues to the full limit at which it was thought such burdens could be borne, and by every kind of security, certificates, notes and obligations that he could issue and sell or in any way use, he drew advance drafts upon the Nation's resources.

He met with many disappointments and discouragements, but he unflaggingly persevered, and finally succeeded, approximately, to the full measure that success was possible.

There were numerous transactions that might well be mentioned, because of the illustration they afford of the services he rendered, the difficulties he encountered, and of the kind of labor and effort he was constantly putting forth with members of Congress, bankers, editors and others to advance and uphold his views, develop and educate public sentiment, and secure needed legislation and

support; but all are necessarily passed over, that some mention may be made of two subjects, with which he was so identified that even the briefest sketch of his public services should include some special reference to them.

They were the issue of legal tender notes, hereinafter discussed in connection with the legal tender cases, and the establishment of the National Banking System, involving, as it did, the extinction of State Banks of issue.

THE NATIONAL BANKING SYSTEM.

The establishment of a uniform National Banking System was, like most great measures, of gradual development.

It was much discussed and many minds contributed to the working out of the details, but Chase seems to have a pretty clear claim to its general authorship.

Upon him more directly than anybody else was impressed the necessity for some kind of reform in that respect, for while each citizen was experiencing difficulty in his dealings with individual banks he was compelled to deal with practically all of them, and, therefore, felt, in a consolidated form, the combined disadvantages that others suffered in detail.

In view of what we now enjoy, and the ease with which, looking backward, it appears that it should have been brought about it seems incredible that an intelligent people should have so long suffered the inconveniences of the old System.

It can be accounted for only from the fact that for the Government in a general way, and for the people in a commercial and general business sense, that was the day of small things, and it was tolerated because they were accustomed to it, and because there was a natural aver-

sion, especially on the part of the banks, to making radical changes that were necessarily in some degree of an experimental character.

But finally there came a precipitating cause, and the contest was inaugurated to substitute something better. The case was a plain one but the resistance was stubborn.

Aside from the universal and almost unbearable inconveniences of doing business with a currency that had no uniformity of issue, appearance, or value; and which had no proper safeguards against counterfeits and forgeries, was the fact that it was not possible for such a discredited and unsatisfactory System to render the Government much substantial help in placing its loans or in conducting any of its important fiscal transactions.

Chase saw clearly, and from the first, that such a System could not co-exist with a uniform national system such as he contemplated, and that the existing State Institutions would not surrender their charters, and take new ones under an Act of Congress, unless they were offered more substantial advantages than the Government should be required to give, or instead were deprived of the privilege of issuing their own notes, and that the best way to solve the problem was to tax their issues out of existence.

It was a hard matter to bring others to agree with him. The opposing banks commanded in the aggregate a tremendous influence, and with the aid of doubting Congressmen and newspapers they long delayed, and finally so crippled the first Act that was passed, that it failed to provide an acceptable and successful plan largely because it left the State issues untouched.

It continued so until the law was so amended as to embrace practically all the recommendations Chase had made and insisted upon, including a tax of ten per cent.

on the issues of State Banks. This did not happen until he had quit the Treasury Department, but it was his plan and his work, consummated, that gave us freedom from the worst banking system that could be well imagined, and substituted therefor one of the best any country has ever enjoyed. It was a work of high character and of enduring benefit to the whole country. It was the crowning act of his administration of the Treasury Department, if not of his whole life, and, coupled with his other successes, entitles him to rank, after Hamilton, who has had no equal, with Gallatin and Sherman, and the other great Secretaries who have held that high office.

RELATIONS TO MR. LINCOLN.

It was unfortunate for his influence then and his reputation now that at times he showed less satisfaction with his position and exhibited less cordial good-will in his relations to Mr. Lincoln than he should. Personal disappointment was probably the chief cause. From his first appearance in public life he was talked about for the Presidency, and almost from the beginning he talked about and for himself in that connection. Barring the indelicacy manifested, there was no impropriety in such talk until after he accepted a seat in the Cabinet. It was different after that, for while there was all the time more or less opposition cropping out to the renomination of Mr. Lincoln, yet there was never at any time enough to justify a member of his political household, who had been part of his administration and policies, in the encouragement of that opposition, particularly for his own benefit. That Chase was a passive candidate during all the time he was in the Cabinet and a good part of the time an active candidate, cannot be doubted. His many letters

and diary entries show this; not so much by his open advocacy of his claims as by criticisms of Mr. Lincoln and his manner of conducting the public business and the general encouragement he was giving and evidently intending to give to the opposition sentiment.

He may not have realized fully the character of record he was making in this respect, for he was no doubt somewhat blinded by the fact that he never could quite outgrow the idea that Lincoln did not deserve to be put ahead of him in 1860, and that the country would surely sometime learn its mistake and right the wrong. In addition he had a conceit that he was of greater importance than he was getting credit for at the hands of the President, and that when he and the President differed about anything in his department the President should yield, as he always did, except in a few instances when his sense of duty and responsibility prevented. At such times he was especially liable to say and do peevish and annoying things. On a number of such occasions he went so far as to tender his resignation, accompanied each time with a letter expressing a deep sense of humility but with an air of injured innocence that he no doubt keenly felt. Notwithstanding the trial it must have been for Mr. Lincoln to do so, he, each time, with singular patience, that only the good of his country could have prompted, not only refused acceptance, but apparently placed himself under renewed obligations by insisting that he should remain at his post.

Naturally this was calculated to cause Chase to more and more regard himself as indispensable, until finally, June 30th, 1864, on account of new differences connected with the appointment of an Assistant United States Treasurer at New York, he made the mistake of tendering his resignation once too often. This time Mr. Lincoln promptly, and to Mr. Chase's great surprise and

chagrin, accepted it and clinched the matter by immediately appointing his successor.

He was thus suddenly left in a pitiable plight so far as his personal political fortunes were concerned, and but for the uncommon generosity of Mr. Lincoln, he would have so remained.

Mr. Lincoln had been renominated and the victories of Grant and Sherman were every day strengthening his Party and his chances of election.

All thoughtful men could see that the end of the war could not be much longer deferred and that, with victory assured and Mr. Lincoln re-elected, there was renewed strength with continuance in power ahead for the Republican party. It was a bad time for a man who had sustained the relations he had to the Party, and the war, and the administration, to drop out of the ranks and get out of touch with events; but there he was, "outside the breastworks," and nobody to blame but himself.

It was a hard fate that seemed to have befallen him; and such it would have been if almost anybody but Mr. Lincoln had been President, for most men would have left him helpless in his self-imposed humiliation. But Mr. Lincoln was a most remarkable man. He was enough like other men to enjoy, no doubt, the discomfiture Chase had brought on himself, but enough unlike other men to magnanimously overlook his weaknesses and offenses when public duty so required.

APPOINTED CHIEF JUSTICE.

Accordingly, remembering only his long and faithful services and his high general and special qualifications for the place, he made him Chief Justice.

From the date of his resignation until December when he was appointed, were probably his bitterest days.

He had nothing to do and no prospect. He made an effort, or at least his friends did, to secure his nomination for Congress from his old Cincinnati District, but so signally failed as to give painful evidence that he was not only out of office and out of power, but also out of favor. He was almost out of hope also when Chief Justice Taney died. He was conscious that he had no claim on Mr. Lincoln for that or any other place, not alone because he had petulantly deserted him at a critical moment, but also and more particularly because in his vexation of spirit he had said some very unkind things of him, but he did not hesitate to allow his friends to urge him for that high honor, and, notwithstanding many protests, Mr. Lincoln gave it to him.

It would be hard to recall an instance of greater magnanimity than was thus shown by Mr. Lincoln. It was magnanimous because, while in most respects Mr. Chase's qualifications for the position were high, they were not of such exceptional character as to single him out above all other men for the place; certainly not if we consider only his experience at the bar, for while the first six years of his life in Cincinnati were devoted to the practice of his profession, yet, like the same period with other beginners, they were not very busy years. He had no exceptional successes. His progress was satisfactory and probably all that should have been expected, but there was nothing extraordinary to forecast for him the great honor of the Chief Justiceship.

During the following thirteen years, until he was elected to the Senate, his time was so occupied with political demands that he did not have much opportunity for professional work, and what time he did devote to his law practice was taken up very largely with Fugitive Slave Law cases, aside from which there is no record of any case or employment that he had during all those

nineteen years, from 1830, when he located in Cincinnati, until 1849, when he was elected to the Senate, that was of anything more than passing importance. During all that time, he probably never had any single employment of sufficient importance to bring him a fee of so much as \$1,000.

It is probable that in all that time he never had a patent case, or an admiralty case, or any occasion to make any study whatever of international law, and yet at that point virtually ended not only his career as a practicing lawyer, but also his study of the science of the law except as an incident of his public services.

During the next six years—until 1855—he was a member of the Senate, and devoted all his time to his public duties and to public questions and affairs. He was next, for four years, Governor of Ohio, and then came the national campaign of 1860, the election of Mr. Lincoln and the Secretaryship in his Cabinet, which continued until his resignation shortly before he was appointed Chief Justice.

And yet he was, all things considered, probably the best qualified of all who were mentioned for the place. His limited experience at the bar was not without precedents. Neither Jay nor Marshall had any very considerable experience of that character.

Both of them, like Chase, were prepared for their great work more by their public services and studies as statesmen, than by the general study of the law and the trial of cases in the courts. It was much the same with Taney. He had a larger experience as a practitioner, and was Attorney-General, but his appointment was due more to his general public services than his professional achievements, although they were highly creditable and his standing as a lawyer was good.

Jay was intimately identified with the formative stages of our Government institutions, and in that way was familiar from their very origin with the public questions it was thought might arise for decision; and Marshall, a soldier of the Revolution and a careful student of the great purposes and results of that struggle was thereby equipped for not only his distinguished political career, but also for the great work for which the American people owe him a debt of everlasting gratitude, of so interpreting the Constitution as to breathe into it, with the doctrine of implied powers, that life, flexibility and adaptability to all our exigencies and requirements, that have made it, not only a veritable sheet anchor of safety for us, but also the marvel of the statesmen of the world.

With Chase, as with his illustrious predecessors, it was his long, varied and important public services rather than his professional labors that prepared him for the Chief Justiceship and secured him the appointment. They were of a character that broadened his views by compelling a study of the Constitution and the foundation principles of our Government in connection with their practical application.

Mr. Lincoln not only understood and appreciated this, but he foresaw, and no doubt had much anxious concern on that account, that, after the restoration of peace, all the great transactions and achievements of his Administration would have to run the gauntlet of the Courts. The abolition of slavery, the status of the freedmen, the status of the seceding States, the status of their inhabitants—the leaders who had brought about the war, and the masses of the people who had simply followed them, the confiscation of property, all the great war measures that Congress had enacted, including the legal tender acts, he knew must in the order of events sooner or later come before the Supreme Court for final adjudication.

It was natural to conclude that no man was so well qualified to deal intelligently and satisfactorily with these questions as he who, in addition to having good general qualifications, had been a capable and responsible participator in all that gave rise to those questions.

There were many other great lawyers, but there was no other lawyer of equal ability who had sustained such a relation to these subjects.

Mr. Lincoln had a right to expect that with Chase Chief Justice the fruits of the war, in so far as he might have occasion to deal with them, would be secure, and this doubtless turned the scales in his favor.

In large measure he met every just and reasonable expectation. In so far as he failed to do so, it was generally charged, whether rightfully or not, to his ambition to be President, which he should have put away forever on his accession to the Bench, but which he appears to have indulged until his very last days.

This is particularly true of his failure to bring Jefferson Davis to trial; and with respect to his rulings in the Impeachment of Andrew Johnson; and his opinions in the Legal Tender cases.

Most men are now agreed that he acted wisely as to Davis, and that he ruled honestly and ⁱⁿ most cases correctly on the trial of Johnson.

THE LEGAL TENDER CLAUSE.

As to the Legal Tender cases he was at the time and has been ever since much censured, aside from the merits of the controversy, on the ground that he tried to undo on the Bench what he did, or at least was largely responsible for as Secretary. No complete defense against this charge can be made, but the case against him is not so bad as generally represented, for, while

finally assenting to such legislation, and from time to time as occasion required availing himself of its provisions, he was at first opposed to the step on the ground of policy and from doubt as to the power, and at last reluctantly yielded his objections rather than his opinions, only when the necessities of the Government seemed to imperatively so demand, and when Congress had fully determined to resort to the measure anyhow.

For him to have longer opposed would have been futile to prevent it, and could not have had any other effect than to discredit the notes when issued, breed discord, and put him at cross purposes with men, as competent to judge as he, with whom it was his duty to co-operate in every way he could to accomplish the great purpose all alike had in view of preserving the Union.

The situation was so unlike anything with which we are to-day familiar, that it is not easy to recall it.

Instead of the annual revenues of the Government aggregating the abundant and almost incomprehensible sum of seven hundred millions of dollars, as they do to-day, they amounted then from all sources to less than fifty millions of dollars.

Instead of two per cent. bonds selling readily in wholesale quantities, as they do to-day at a premium, six per cent. bonds were sold only with difficulty, and in dribbling amounts at a ruinous discount.

In lieu of a national paper currency, good everywhere as the gold itself, we had only an inadequate supply of notes of uncertain and varying value, subject to no regulation or provision for their redemption in gold, except such as was imperfectly provided by the different States.

Few saw and appreciated until the second year of the war in what a gigantic struggle we were involved, and how stupendous must be the financial operations and provisions of the Government to meet its requirements.

For this reason no comprehensive or well considered plans were adopted at the start, as foresight of what was coming would have suggested, but on the contrary mere temporary expedients, such as the sale of bonds in comparatively small amounts, and to run for short periods, demand loans, interest and non-interest bearing Treasury certificates and notes, demand notes, and whatever form of obligation could be utilized for the time being were resorted to, and relied upon to tide over what it was hoped and believed would be, although a most severe, yet only a temporary emergency.

As the war progressed and we met with reverses in the field, that indicated it would be prolonged, specie payments were suspended, and the national credit became more and more strained and impaired.

In consequence it became practically impossible to longer raise by such methods the necessary funds with which to conduct the Government and prosecute the war, or even to transact satisfactorily the private business of the country.

The point was finally reached where the people must come to the financial help of the Treasury, or the Union must perish.

Chase saw as well as others that the law of the case was Necessity, but he did not yield without an effort to have attached as a condition, provision for a uniform National Banking System. The condition was not accepted, but was provided for later, and long before the legal tender cases arose.

Whatever else may be said about the legal tender clause, it is a fact of history that the effect for good on the Union cause was instantaneous and immeasurable. If it was a forced loan from the people, they gladly made it. If it was a hardship on anybody, it was not com-

plained of by any friend of the Union. It gave confidence and imparted courage, and from that moment success was assured, not only for the Union cause, but for everybody connected with it, and especially for Chase himself, for without it his administration of the Treasury Department would have been a dismal and mortifying failure.

Such a measure, arising from such a necessity, and accomplishing such results, was as sacred as the cause it subserved, and, aside from the wholesale disasters involved, it never should have been called in question by anybody, especially not by anyone who had the slightest responsibility for its enactment, and least of all by a personal or official beneficiary.

It is both impossible and unnecessary, if not inappropriate, to here discuss the legal propositions involved in the legal tender cases, but, on the other hand, it is both appropriate and essential to the completeness of these remarks to speak of Chief Justice Chase's attitude with respect to them.

No one can make a better defense for him than he made for himself.

In *Hepburn vs. Griswold*, anticipating the criticisms he knew must follow his decision that the legal tender clause was unconstitutional as to debts previously contracted, he said, manifestly by way of attempted personal justification:

“It is not surprising that amid the tumult of the late Civil War, and under the influence of apprehensions for the safety of the Republic almost universal, different views, never before entertained by American statesmen or jurists, were adopted by many. The time was not favorable to considerate reflection upon the constitutional limits of legislative or executive authority. If power was assumed from patriotic motives, the assumption found ready justifica-

tion in patriotic hearts. Many who doubted yielded their doubts; many who did not doubt were silent. Some who were strongly averse to making government notes a legal tender felt themselves constrained to acquiesce in the views of the advocates of the measure. Not a few who then insisted upon its necessity, or acquiesced in that view, have, since the return of peace, and under the influence of the calmer time, reconsidered their conclusions, and now concur in those which we have just announced. These conclusions seem to us to be fully sanctioned by the letter and spirit of the Constitution."

In the Legal Tender Cases he amplified this somewhat, but without adding to its strength.

His opinions in these cases were in dignified style and, from his point of view, very able; but there was then and still is, and perhaps always will be much difference of opinion as to their merit.

In all other respects his work as Chief Justice is now universally considered highly creditable—some of it particularly so—especially his opinion in *Texas vs. White*, which he regarded with great pride and satisfaction as a sort of culminating fruit of his life's labors. His opinions were usually brief and always clear and strong. They cover almost every phase of the litigation growing out of the Civil War and the reconstruction acts that followed, and all the decisions of the Court, while he presided, remain unquestioned, except, inferentially, the constitutionality of the income tax.

He died May 7, 1873, in the sixty-sixth year of his age, after only eight years of service on the Bench; but they were years of great anxiety to the American people, for, during all that time, the country's destiny was in a large measure in the hands of the Supreme Court. On its decisions depended the issues of the war—whether to be upheld and made secure or overthrown and brought

to naught. The Court was equal to all requirements and did its part so splendidly and brilliantly of the great work of regeneration and preservation that Chase and his associates deserve to stand—and do—in public esteem and gratitude next after Marshall and his associates. The one dealt with the construction of our government, the other with its reconstruction. The labors of both were vital.

If he had been content to devote himself to his judicial work exclusively, he would have been spared much that was disagreeable and his fame would have been brighter than it is.

All his life, until his last two years, he had robust health, unlimited energy, and an almost uncontrollable disposition to participate in the general conduct of public affairs.

In consequence, while Chief Justice he was, in what was regarded as a sort of intermeddling way, constantly giving attention to questions that belonged to Congress and other departments of government, and was from time to time freely offering advice and making suggestions as to legislative enactments and governmental policies; but, more unfortunately still, he was all the while listening to the suggestions of unwise friends and mere flatterers about the Presidency. Much work was done for him with his knowledge and approval to secure the Republican nomination in 1868, but early in that year, seeing there was an irresistible sentiment in favor of General Grant, he withdrew himself from the race. If he had remained out there would have been but little criticism, but he was scarcely out of the Republican race until he was entered for the Democratic. While the impeachment trial of President Johnson was yet in progress he signified a willingness to become the Democratic candidate and set forth in letters to his friends that inas-

much as the slavery questions had all been settled there was nothing in his political beliefs inconsistent with the principles of Democracy in which he had always been a believer. For a time there seemed strong probability that he would be the Democratic nominee. But it is familiar history that before his name could be presented the Convention was stampeded to Governor Seymour. Naturally there were charges that he was influenced, on account of his Presidential candidacy, by political considerations, and in this way he was shorn of much of the dignity, confidence and influence that rightfully belonged to him in his high office. He suffered in this way, not only as Chief Justice, but also as a man. This is especially true of his candidacy in 1868 for the nomination first by the one party and then by the other, for at that time there was such a radical difference between the parties, and so much bitterness of feeling, that it was incomprehensible to the average mind how any honorable man could so lightly, and with such apparent equal satisfaction to himself, belong to first the one and then the other, and with like zeal seek, or at least be willing to accept, the honors of both.

The explanation is in the fact that it was the weakness of a strong man. He was so conscious of his mental powers and of his qualifications by reason of his long public service, to make a capable and efficient Chief Magistrate, that it was easy for him to think his claims for such recognition better than those of others; especially others who had been differently trained, as Grant had been, and, therefore, to believe that his friends were right in their judgment that he was, for just reasons, the people's choice, and that it was his duty to his country, as well as to them, to become their candidate.

With all his faculty for measures he had but little for men. He was himself so simple-minded, truthful and

straight-forward in his dealings with others that he seemed incapable of understanding how untruthful and deceitful others were capable of being in their dealings with him, especially if their pretensions were in accord with his own views and desires.

As time passes these features of his career will fade out of sight and be forgotten. Already he has taken his proper place in history, and in the appreciation of the American people, as the great figure he really was—a strong, massive, patriotic, fearless and controlling character in the settlement of the mighty questions that shook to their foundations the institutions of our Government. He will be remembered also for the purity of his life, for his domestic virtues, for his deeply religious nature, ever depending on Divine help, and for that love and zeal for humanity that made him brave social ostracism and sacrifice, if necessary, all chance of personal political preferment that he might champion the cause of the slave and break the power that held him in fetters. In the light of true history the consistency of his conduct will not be determined by the record of his party affiliations, but by the constancy of his devotion to the cause that filled his heart and dominated all his political actions. Measured by that test, few men have run a straighter course or done more to merit a high place in the esteem of their countrymen.

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